



OFFICE OF THE SECRETARY OF STATE  
STATE OF MISSOURI  
JEFFERSON CITY  
65101

MATT BLUNT  
SECRETARY OF STATE

GENERAL COUNSEL  
(573) 526-1272

**MEMORANDUM**

TO: All Missouri Public Libraries

FROM: Terry Jarrett, General Counsel

DATE: September 29, 2003

SUBJECT: HB 349/Concealed Firearms

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The State Library has received several inquiries from local libraries expressing interests in the potential impact on public libraries of the veto override of HB 349, which authorizes permits to carry concealed firearms. The purpose of this memorandum is to provide information to libraries on this issue.<sup>1</sup>

By way of background, HB 349 allows individuals to carry concealed firearms in Missouri. The bill establishes a procedure for obtaining an endorsement (i.e., permit) on a person's driver's license that allows the person to carry a concealed firearm. A person must meet several qualifications, including training in the use of firearms, and a criminal background check by the state and FBI. Sheriffs will issue certificates of qualification to applicants who meet the requirements for obtaining the endorsement.

HB 349 contains several limitations on where concealed firearms may be carried. Endorsements to carry concealed firearms are not valid in many places, including:

- Police, sheriff or highway patrol offices or stations;
- Polling places on election day;

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<sup>1</sup> This is for general educational and informational purposes only, and is not legal advice by the State Library or the Secretary of State. If you need advice on a specific legal matter, you should consult an attorney in your own jurisdiction.

- Correctional facilities, prisons or jails;
- Courthouses;
- Meetings of governing bodies of units of local government;
- Buildings owned, leased or controlled by The General Assembly, Supreme Court, County or Municipality;
- Bars, restaurants and other establishments serving liquor or beer;
- Airports;
- Any place where firearms are prohibited by federal law;
- Schools;
- Child care facilities;
- Riverboat gambling facilities;
- Amusement parks;
- Churches;
- Any private property whose owner has posted a sign that firearms are prohibited;
- Sports arenas and stadiums; and
- Hospitals.

The list of limitations does not specifically mention public libraries. The State Library takes no position on whether a public library should or should not prohibit concealed firearms from its premises or facilities. However, should a public library wish to consider such an option, two of the limitations might apply.

The first limitation that might apply to libraries is the limitation which provides that endorsements to carry concealed firearms are not valid where by rule, administrative regulation, or ordinance, a “municipality” prohibits the carrying of concealed firearms in its buildings or facilities. A library district is considered a municipal corporation. St. Charles City-County Library Dist. v. St. Charles Library Building Corp., 627 S.W.2d 64, 66 (Mo. App. 1981). The Missouri Supreme Court has interpreted the term “municipality” to include local government units in addition to just cities and towns. In St. Louis Housing Authority v. City of St. Louis, 239 S.W.2d 289 (Mo.banc 1951), the Supreme Court concluded that the St. Louis Housing Authority was a municipality, stating:

A “municipal corporation” is commonly called a “municipality”. By both judicial recognition and common usage “municipality” is a modern synonym of “municipal corporation”. “Municipality” is all embracing. It includes, of course, cities of all classes, as well as towns, but it includes also a non-profit agency, such as plaintiff, which is authorized to exercise public and essential governmental functions. By the General Assembly plaintiff’s status is declared to be a municipal corporation exercising public and essential government functions. Webster’s New International

Dictionary, 2<sup>nd</sup> Ed., defines municipality as a municipal corporation. The suffix “ity” denotes state, or condition of being. Thus municipality connotes the state or condition of being municipal in nature. The word “municipal” is derived from the latin “municipalis”, and implies the right of local self government. Municipality now has a broader meaning than “city” or “town”, and presently includes bodies public or essentially governmental in character and function and distinguishes public bodies, such as plaintiff, from corporations only quasi-public in nature. But the two terms (municipality and municipal corporation) are often interchangeably used. Likewise, “municipal corporation”, in the broader sense now includes public corporations created to perform an essential public service and “is applied to any public local corporation exercising some function of government”.

Id. at 294-95 (citations omitted) (emphasis added). This supports the argument that the term “municipality”, in the context of HB 349, should be construed broadly to include units of local government like public libraries. Further support for a broad interpretation comes from several of the other limitations pertaining to places where children are present – schools, childcare facilities, amusement parks, churches, sports arenas and hospitals. HB 349 sets the public policy of limiting concealed firearms from places where children are normally found. Certainly, children frequent public libraries and are typically found there. The public policy of protecting children supports a broad interpretation of “municipality” to include public libraries.

A second limitation that might apply to some libraries is the limitation that allows owners of private buildings to prohibit concealed firearms by posting the premises as being off-limits to concealed firearms. Then, the owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity or person may prohibit concealed firearms from the premises. Some public libraries may lease or rent their premises from private property owners. In those instances, the building would be “private property” and the public library would be “any other organization, entity, or person” authorized to prohibit concealed firearms from their premises. In addition, if the public library building is owned by the county or city or town, that governmental unit may enact a rule or ordinance to prohibit concealed firearms from the building.

Again, the State Library takes no position on whether a public library should or should not consider prohibiting concealed firearms. We strongly urge all public libraries to fully comply with all laws. Before a public library takes any action to prohibit concealed firearms from its premises, it should consider the issue carefully and consult its own attorney for legal advice. I hope that the information in this memorandum is helpful. Please feel free to contact me or State Librarian Sara Parker if you have any questions.